UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1998/L.11/Add.6
22 April 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 26

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FOURTH SESSION OF THE COMMISSION

Draft report of the Commission

Rapporteur: Mr. Roman Kuzniar

CONTENTS*

Chapter — Page

II. Resolutions and decisions adopted by the Commission at its fifty-fourth session . . . . . .

A. Resolutions

1998/72. The right to development . . . . . .

1998/73. Hostage-taking . . . . . .

1998/74. Human rights and thematic procedures . . . .

1998/75. Abduction of children from northern Uganda .

1998/76. Rights of the child . . . . . .

* Documents E/CN.4/1998/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1998/L.11 and addenda.

GE.98-12477 (E)

CONTENTS (continued)

Chapter — Page

II. A. Resolutions (continued)

1998/77. Conscientious objection to military service .

1998/78. Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action . . . . . .

1998/79. Situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) . . . . . .

1998/80. Situation of human rights in the Islamic Republic of Iran . . . . . .

1998/72. The right to development

The Commission on Human Rights,

Guided by the Charter of the United Nations, expressing in particular the determination to promote social progress and better standards of life in larger freedom as well as to employ international mechanisms for the promotion of the economic and social advancement of all peoples,

Recalling that the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 confirmed that the Right to Development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals, who make up nations,

Noting that the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of all fundamental human rights,

Recognizing that the Declaration on the Right to Development constitutes an integral link between the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action (A/CONF.157/23) through its elaboration of a holistic vision integrating economic, social and cultural rights with civil and political rights,

Expressing its concern, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, that the unacceptable situation of absolute poverty, hunger, and disease, lack of adequate shelter, illiteracy and hopelessness remains the lot of over one billion people,

Emphasizing that the promotion, protection and realization of the right to development is an integral part of the promotion and protection of all human rights,

Noting that the human person is the central subject of development and that development policy should therefore make the human being the main participant and beneficiary of development,

Stressing the importance of creating an economic, political, social, cultural and legal environment that will enable people to achieve social development,

Affirming the need to apply a gender perspective in the implementation of the right to development, inter alia by ensuring that women play an active role in the development process,

Emphasizing that the empowerment of women and their full participation on a basis of equality in all spheres of society is fundamental for development,

Underlining the fact that realization of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment at the international level,

Welcoming in this regard the adoption by the General Assembly of the Agenda for Development which declares that development is one of the main priorities of the United Nations and aims at invigorating a renewed and strengthened partnership for development, based on the imperatives of mutual benefits and genuine interdependence,

Noting with concern that the Declaration on the Right to Development is insufficiently disseminated and should be taken into account, as appropriate, in bilateral and multilateral cooperation programmes and national development strategies and policies and activities of international organizations,

Recalling the need for coordination and cooperation throughout the United Nations system for a more effective promotion and realization of the right to development,

Underlining the important role of the United Nations High Commissioner for Human Rights in the promotion and protection of the right to development, as mandated in paragraph 4 (c) of General Assembly resolution 48/141 of 20 December 1993,

Recalling its resolution 1997/72 of 16 April 1997 and noting General Assembly resolution 52/136 of 12 December 1997,

Taking note with interest of the report (E/CN.4/1998/29) submitted by the Intergovernmental Group of Experts, including the proposed strategy contained therein, and welcomes in particular the recommendation that a follow-up mechanism should be established to ensure promotion and implementation of the Declaration on the Right to Development,

1. Reaffirms the importance of the right to development for every human person and all peoples in all countries, in particular the developing countries, as an integral part of their fundamental human rights as well as the potential contribution its realization could make to the full enjoyment of human rights and fundamental freedoms;

2. Recognizes that the fiftieth anniversary of the Universal Declaration of Human Rights provides an important opportunity to place all human rights at the top of the global agenda and, in this context, the right to development in particular;

3. Reiterates that:

(a) The essence of the right to development is the principle that the human person is the central subject of development and that the right to life includes within it existence in human dignity with the minimum necessities of life;

(b) The existence of widespread absolute poverty inhibits the full and effective enjoyment of human rights and renders democracy and popular participation fragile;

(c) For peace and stability to endure, national action and international action and cooperation are required to promote a better life for all in larger freedom, a critical element of which is the eradication of poverty;

4. Reaffirms that democracy, development and respect for human rights and fundamental freedoms, including the right to development, are interdependent and mutually reinforcing, and in this context affirms that:

(a) Development experiences of countries reflect differences with both progress and setbacks, and that the development spectrum has a wide range, not only between countries but also within countries;

(b) A number of developing countries have experienced rapid economic growth in the recent past and have become dynamic partners in the international economy;

(c) At the same time the gap between developed and developing countries remains unacceptably wide and developing countries continue to face difficulties participating in the globalization process, and many risk being marginalized and effectively excluded from its benefits;

(d) Democracy, which is spreading everywhere, has raised development expectations everywhere; that their non-fulfilment risks the rekindling of non-democratic forces and that structural reforms that do not take social realities into account could destabilize democratization processes;

(e) Effective popular participation is an essential component of successful and lasting development;

(f) Democracy, respect for all human rights and fundamental freedoms, including the right to development, transparent and accountable governance and administration in all sectors of society, as well as effective participation by civil society, are an essential part of the necessary foundations for the realization of social- and people-centered sustainable development;

(g) The participation of developing countries in the international economic decision-making process needs to be broadened and strengthened;

5. Urges all States to eliminate all obstacles to development at all levels, by pursuing the promotion and protection of economic, social, cultural, civil and political rights and by implementing comprehensive development programmes at the national level, integrating these rights into development activities, and by promoting effective international cooperation;

6. Reaffirms that all human rights are universal, indivisible, interdependent and interrelated and that the universality, objectivity, impartiality and non-selectivity of the consideration of human rights issues must be ensured;

7. Affirms that international cooperation is acknowledged more than ever as a necessity deriving from recognized mutual interest, and therefore that such cooperation should be strengthened in order to support the efforts of developing countries to solve their social and economic problems and to fulfil their obligations to promote and protect all human rights;

8. Welcomes the intention of the Secretary-General to give high priority to the right to development and urges all States to further promote the right to development as a vital element in a balanced human rights programme;

9. Also welcomes the high priority devoted by the High Commissioner for Human Rights to activities relating to the right to development, and urges the Office of the High Commissioner for Human Rights to continue implementing Commission resolution 1997/72, in particular with regard to:

(a) Examining ways and means to provide the Declaration on the Right to Development with a profile commensurate with its importance;

(b) Continuing to accord priority to the right to development and providing commensurate support in terms of staff, services and resources for its programmatic follow-up;

(c) Ensuring widespread dissemination and promotion of the Declaration on the Right to Development, in close cooperation with States and

intergovernmental organizations, national institutions, academia and interested non-governmental organizations worldwide, inter alia through workshops and seminars;

(d) Projecting the role and importance of the right to development in activities being organized as part of the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights;

(e) Consulting regularly on a formal and informal basis with all States on the follow-up to the Declaration on the Right to Development;

(f) The welcome initiative to organize regional seminars which should focus on all aspects of the realization of the right to development;

(g) Undertaking with the World Bank a dialogue with regard to the right to development, including initiatives, policies, programmes and activities that can promote the right to development, and informing Member States on a regular basis of the progress in such a dialogue;

10. Decides, in view of the urgent need to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development, to recommend to the Economic and Social Council the establishment of a follow-up mechanism, initially for a period of three years, consisting of:

(a) The establishment of an open-ended working group to meet for a period of five working days each year, after the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights, with a mandate to:

(i) Monitor and review progress made in the promotion and implementation of the right to development, as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon, and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration on the Right to Development;

(ii) Review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development;

(iii) Present for the consideration of the Commission on Human Rights a sessional report on its deliberations, including,

inter alia, advice to the Office of the High Commissioner for Human Rights with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development;

(b) The appointment by the Chairman of the Commission on Human Rights of an independent expert with high competence in the field of the right to development, with a mandate to present to the Working Group at each of its sessions a study on the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, inter alia, the deliberations and suggestions of the Working Group;

11. Invites the High Commissioner for Human Rights to present a report to the Commission each year for the duration of the mechanism, to provide interim reports to the Working Group and to make these reports available to the independent expert, in each case covering:

(a) The activities of her Office relating to the implementation of the right to development as contained in her mandate;

(b) The implementation of resolutions of the Commission and the General Assembly with regard to the right to development;

(c) Inter-agency coordination within the United Nations system for the implementation of relevant resolutions of the Commission in that regard;

12. Calls upon the Secretary-General to ensure that the Working Group and the independent expert receive all necessary assistance, in particular the staff and resources required to fulfil their mandates;

13. Requests the Secretary-General to submit to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session a comprehensive report on the implementation of the various provisions of the present resolution;

14. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/72 of 22 April 1998, endorses the Commission's decision, in view of the urgent need to make further progress towards the realization of the right to development as

elaborated in the Declaration on the Right to Development, to establish a follow-up mechanism, initially for a period of three years, consisting of:

"(a) The establishment of an open-ended working group to meet for a period of five working days each year, inter-sessionally after the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights, with a mandate to:

"(i) Monitor and review progress made in the promotion and implementation of the right to development, as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon, and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration on the Right to Development;

"(ii) Review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development;

"(iii) Present for the consideration of the Commission on Human Rights a sessional report on its deliberations, including, inter alia, advice to the Office of the High Commissioner for Human Rights with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development;

"(b) The appointment by the Chairman of the Commission on Human Rights of an independent expert with high competence in the field of the right to development, with a mandate to present to the Working Group at each of its meetings a study of the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, inter alia, the deliberations and suggestions of the Working Group."

58th meeting
22 April 1998
[Adopted without a vote. See chap. VI.]

1998/73. Hostage-taking

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, freedom from torture or degrading treatment, freedom of movement and protection from arbitrary detention,

Taking into account the International Convention against the Taking of Hostages, adopted by the General Assembly in its resolution 34/146 of 17 December 1979, which also recognizes that everyone has the right to life, liberty and security of person and that the taking of hostages is an offence of grave concern to the international community, as well as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly in its resolution 3166 (XXVIII) of 14 December 1973,

Bearing in mind the pertinent Security Council resolutions condemning all cases of hostage-taking,

Recalling its resolution 1997/28 of 11 April 1997 and other previous resolutions on the subject, in particular its resolution 1992/23 of 28 February 1992, in which it condemned the taking of any person as hostage,

Concerned that, despite the efforts of the international community, acts of hostage-taking, in different forms and manifestations, including, inter alia, those committed by terrorists and armed groups, have increased in many regions of the world,

Appealing for the humanitarian action of humanitarian organizations, in particular of the International Committee of the Red Cross and its delegates, to be respected, in accordance with the Geneva Conventions of 1949 and the Additional Protocols thereto,

Recognizing that hostage-taking calls for resolute, firm and concerted efforts on the part of the international community in order, in strict conformity with international human rights standards, to bring such abhorrent practices to an end,

1. Reaffirms that hostage-taking, wherever and by whomever committed, is an illegal act aimed at the destruction of human rights and is, under any circumstances, unjustifiable;

2. Condemns all acts of hostage-taking, anywhere in the world;

3. Demands that all hostages be released immediately and without any preconditions;

4. Calls upon States to take all necessary measures, in accordance with relevant provisions of international law and international human rights standards, to prevent, combat and punish acts of hostage-taking, including by strengthening international cooperation in this field;

5. Urges all thematic special rapporteurs and working groups to continue to address, as appropriate, the consequences of hostage-taking in their forthcoming reports to the Commission;

6. Decides to remain seized of this matter.

58th meeting
22 April 1998
[Adopted without a vote. See chap. VIII.]

1998/74. Human rights and thematic procedures

The Commission on Human Rights,

Considering that thematic procedures established by the Commission with regard to the consideration of questions related to the promotion and protection of all human rights have an important role among its human rights monitoring mechanisms,

Emphasizing the importance of the impartiality, objectivity and independence of the thematic procedures as well as the need for due attention to violations of human rights wherever they may occur,

Noting with satisfaction that an increasing number of Governments have developed a working relationship with the thematic procedures, in particular in the form of invitations to visits, responses to requests for information and implementation of recommendations, and that numerous non-governmental organizations have also developed a working relationship with the thematic procedures,

Welcoming the approval of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms in its resolution 1998/7 of 3 April 1998,

Emphasizing the obligation of Governments not to subject individuals, organizations or groups of persons who have provided information to the special procedures to adverse treatment, as a result of such action,

Recalling the applicability of the provisions of the 1946 Convention on the Privileges and Immunities of the United Nations to the work of the experts of the special procedures system in the exercise of their functions,

Recalling all its resolutions on human rights and thematic procedures,

Recalling also:

(a) Recommendations concerning thematic procedures contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights which called for the strengthening of special procedures;

(b) The Secretary-General's programme for United Nations reform (A/51/950 and Add.1-6), which calls for mainstreaming human rights in United Nations activities,

Mindful of the request of the Secretary-General to the United Nations High Commissioner for Human Rights to review the human rights machinery and develop recommendations on possible ways to streamline and rationalize it, with a view to strengthening, inter alia, the special procedures,

Welcoming the organization by the United Nations High Commissioner for Human Rights of annual meetings of the holders of mandates, as recommended by the World Conference on Human Rights, and the efforts to coordinate activities among various mandates in the areas of urgent actions, missions to the field and relevant meetings and consultations, so as to enhance effectiveness, taking into account the need to avoid unnecessary duplication and overlapping,

Noting that some human rights violations are specific to or primarily directed against women, and that the identification and reporting of these violations demand specific awareness and sensitivity,

1. Commends those Governments that have invited the thematic special rapporteurs, representatives, experts or working groups to visit their countries and developed other forms of intensive cooperation with the thematic procedures;

2. Encourages all Governments to cooperate with the Commission through the pertinent thematic procedures by:

(a) Responding without undue delay to requests for information made to them through the thematic procedures, so that the procedures may carry out their mandates effectively;

(b) Considering inviting thematic special rapporteurs, representatives, experts and working groups to visit their countries, upon request;

(c) Considering follow-up visits with a view to the effective implementation of recommendations by the thematic procedures concerned;

3. Invites the Governments concerned to study carefully the recommendations addressed to them under thematic procedures and to keep the relevant mechanisms informed without undue delay on the progress made towards their implementation;

4. Invites non-governmental organizations to continue their cooperation with thematic procedures and to ascertain that the material provided is as detailed as possible and falls under the mandate of these procedures;

5. Requests the thematic special rapporteurs, representatives, experts and working groups:

(a) To make recommendations for the prevention of human rights violations;

(b) To follow closely and reflect in their reports progress made by Governments in the investigations carried out within their respective mandates;

(c) To continue close cooperation with relevant treaty bodies and country rapporteurs;

(d) To include in their reports information provided by Governments on follow-up action, as well as their own observations thereon, including in regard to both problems and improvements, as appropriate;

(e) To include regularly in their reports gender-disaggregated data and to address the characteristics and practice of human rights violations under their mandates that are specifically or primarily directed against women, or to which women are particularly vulnerable, in order to ensure the effective protection of their human rights;

6. Requests the thematic special rapporteurs, representatives, experts and working groups to include in their reports comments on problems of responsiveness and the result of analyses, as appropriate, in order to carry out their mandates even more effectively, and to include also in their reports suggestions as to areas where Governments might request relevant assistance through the programme of advisory services administered by the Office of the High Commissioner for Human Rights;

7. Requests the Secretary-General, taking note of the recommendations of the meetings of the special rapporteurs, representatives, experts and chairpersons of working groups, to convene further periodic meetings of all the thematic special rapporteurs, representatives, experts and chairpersons of working groups of the Commission on Human Rights in order to enable them to continue to exchange views, cooperate and coordinate more closely and make recommendations;

8. Encourages the United Nations High Commissioner for Human Rights, including in the context of the five-year review of the Vienna Declaration and Programme of Action to further strengthen cooperation among the thematic special rapporteurs, representatives, experts, members and chairpersons of working groups of the Commission and other relevant United Nations bodies, including the human rights treaty bodies, with a view to promoting greater efficiency and effectiveness through better coordination of the various bodies, mechanisms and procedures, taking into account the need to avoid unnecessary duplication and overlapping of their mandates and tasks;

9. Suggests that the special rapporteurs, representatives, experts and working groups of the special procedures of the Commission, acting within their mandates, consider how they can also promote public awareness about human rights and about the particular situation of individuals, groups and organs of society who promote and protect human rights and fundamental freedoms;

10. Requests the Secretary-General:

(a) To issue annually and sufficiently early, in close collaboration with the thematic special rapporteurs, representatives, experts and working groups, their conclusions and recommendations, so as to enable further discussion of their implementation at subsequent sessions of the Commission;

(b) To present annually a list of all persons currently mandated to carry out the thematic and country procedures, including their country of origin, in an annex to the annotations to the provisional agenda of each session of the Commission on Human Rights;

11. Also requests the Secretary-General, in implementing the United Nations budget for the current biennium, to ensure the availability of such resources as are necessary for the effective implementation of all

thematic mandates, including any additional tasks entrusted to the thematic special rapporteurs, representatives, experts and working groups by the appropriate United Nations organ.

58th meeting
22 April 1998
[Adopted without a vote. See chap. XIX.]

1998/75. Abduction of children from northern Uganda

The Commission on Human Rights,

Recalling the principles set out in the Universal Declaration of Human Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention for the Suppression of the Traffic in Persons and the exploitation of the Prostitution of Others, the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights,

Recalling the findings and recommendations of the report of the expert of the Secretary-General on the impact of armed conflict on children (A/51/306 and Add.1),

Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 which expressed concern about violations of human rights during armed conflicts affecting the civilian population, especially women, children, the elderly and the disabled,

Recalling further the obligation of States parties to respect and strictly observe international humanitarian law in accordance with the Geneva Conventions for the protection of war victims of 1949, the Additional Protocols thereto of 1977 and other principles of international law,

Acknowledging the concern expressed in the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.80) about the abduction, killing and torture of children, as well as the recruitment of children as child soldiers, in northern Uganda,

Recognizing the urgent need for the adoption of effective measures, nationally, regionally and internationally, to protect the civilian population, especially women and children, in northern Uganda from the effects of armed conflict,

Expressing profound concern over the continuing abduction, torture, detention, rape and forced recruitment of children from northern Uganda,

1. Takes note of the findings and recommendations contained in the reports issued in 1997 by United Nations bodies and organizations and non-governmental organizations on the abduction of children from northern Uganda;

2. Concurs with the comments of the Committee on the Rights of the Child on the involvement of children in the conflict in northern Uganda, in particular the recommendation on measures to stop the killing and abduction of children and the use or children as child soldiers;

3. Condemns in the strongest terms all parties involved in the abduction, torture, killing, rape, enslavement and forceful recruitment of children in northern Uganda, particularly the Lord's Resistance Army;

4. Demands the immediate cessation of all abductions and attacks on all civilian populations and in particular women and children, in northern Uganda by the Lord's Resistance Army;

5. Calls for the immediate and unconditional release and safe return of all abducted children currently held by the Lord's Resistance Army;

6. Requests the United Nations Voluntary Fund for Victims of Torture, established by the General Assembly in its resolution 36/151 of 16 December 1981, to provide assistance to the victims and their families suffering from the effects of torture inflicted by the Lord's Resistance Army;

7. Urges all Member States, international organizations, humanitarian bodies and all other concerned parties with any influence on the Lord's Resistance Army, to exert all possible pressure on it to release, immediately and unconditionally, all children abducted from northern Uganda;

8. Demands that all parties external to the conflict in northern Uganda supporting, directly or indirectly, the continuing abduction and detention of children by the Lord's Resistance Army to cease immediately all such assistance and collaboration;

9. Calls upon the Member States to undertake to respect and ensure respect for the rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child;

10. Requests the Special Representative of the Secretary-General on children in armed conflict, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the Office of the High

Commissioner for Human Rights and all relevant organizations, agencies and bodies of the United Nations system to address this situation as a matter of priority;

11. Requests the Secretary-General to report on the implementation of the present resolution to the General Assembly at its fifty-fourth session and, through the Economic and Social Council, to the Commission at its fifty-fifth session;

12. Decides to continue consideration of this question at its fifty-fifth session, under the same agenda item.

58th meeting
22 April 1998
[Adopted by a roll-call vote of 24 votes to 1, with 27 abstentions. See chap. XX]

1998/76. Rights of the child

The Commission on Human Rights,

Bearing in mind the Convention on the Rights of the Child,

Recalling its resolution 1997/78 of 18 April 1997, as well as all its previous resolutions on this subject,

Recalling also the adoption of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, the Programme of Action for the Elimination of the Exploitation of Child Labour and the Programme of Action for the Prevention of the Traffic in Persons and the Exploitation of the Prostitution of Others,

Taking note of General Assembly resolutions 52/98, 52/99, 52/105, 52/106 and 52/107 of 12 December 1997,

Reaffirming the Declaration and Plan of Action adopted by the World Summit for Children in 1990 and the Vienna Declaration and Programme of Action, which, inter alia, states that national and international mechanisms and programmes for the defence and protection of children, in particular those in especially difficult circumstances, should be strengthened, including through effective measures to combat exploitation and abuse of children such as female infanticide, harmful child labour, sale of children and their organs, child prostitution and child pornography as well as other forms of sexual abuse, and which reaffirms that all human rights and fundamental freedoms are universal,

Expressing its support for the ongoing negotiations on the creation of a permanent international criminal court, and inviting those involved to be guided by the principles and the provisions of the Convention on the Rights of the Child, as appropriate,

Noting the work carried out by:

(a) The Committee on the Rights of the Child;

(b) The Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography;

(c) The recently appointed Special Representative of the Secretary-General on the impact of armed conflict on children to follow up the recommendations presented in the study concluded in 1996 by the expert appointed by the Secretary-General;

(d) The working groups on draft optional protocols to the Convention on the Rights of the Child relating to the involvement of children in armed conflict and to the sale of children, child prostitution and child pornography, respectively;

(e) The United Nations Children's Fund;

(f) Other relevant bodies and organizations of the United Nations system, regional organizations, intergovernmental and non-governmental organizations and institutions for the promotion and protection of the rights of the child, and encouraging the establishment of bodies and institutions, both governmental and non-governmental, to monitor, carry out or support activities in favour of children,

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of poverty, inadequate social and economic conditions, natural disasters, armed conflicts, displacement, economic and sexual exploitation, illiteracy, hunger, intolerance and disability, and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

Recognizing that legislation alone is not enough to prevent violations of the rights of the child, that stronger political commitment is needed and that Governments should implement their laws and complement legislative measures with effective action, inter alia in the fields of law enforcement and in the administration of justice, and in social, educational and public health programmes,

Recommending that, within their mandates, all relevant human rights mechanisms and all other relevant organs and mechanisms of the United Nations system and the supervisory bodies of the specialized agencies pay attention to particular situations in which children are in danger and where their rights are violated and that they take into account the work of the Committee on the Rights of the Child,

Underlining the need for mainstreaming a gender perspective into all policies and programmes relating to children,

Reaffirming, as set out in the Convention, that the best interests of the child should be a primary consideration in all actions concerning children,

I

Implementation of the Convention on the Rights of the Child

1. Welcomes:

(a) The nearly universal ratification of or accession by States to the Convention on the Rights of the Child whose number, according to the report of the Secretary-General (E/CN.4/1998/99), reached 191, and urges those States that have not yet done so to sign and ratify or accede to the Convention as a matter of priority;

(b) The role of the Committee on the Rights of the Child in creating awareness of the principles and provisions of the Convention and in providing recommendations to States parties on its implementation, and takes note of the reports on its fourteenth, fifteenth and sixteenth sessions (CRC/C/62, 66 and 69);

(c) The publication by the United Nations Children's Fund of the Implementation Handbook for the Convention on the Rights of the Child, which constitutes an important advocacy tool to promote wider understanding of the principles and provisions of the Convention;

2. Calls upon States parties:

(a) To implement the Convention fully, to cooperate closely with the Committee on the Rights of the Child and to comply in a timely manner with their reporting obligations under the Convention, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

(b) To withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing other reservations;

(c) To accept the amendment to paragraph 2 of article 43 of the Convention, adopted by the Conference of the States Parties on 12 December 1995 and approved by the General Assembly in its resolution 50/155 of 21 December 1995, which would increase the membership of the Committee on the Rights of the Child from 10 to 18 experts upon its entry into force;

(d) To ensure that the rights set forth in the Convention are respected without discrimination of any kind based on the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;

(e) To ensure that the education of the child shall be carried out in accordance with articles 28 and 29 of the Convention and that the education be directed, inter alia, to the development of respect for human rights and fundamental freedoms, for the Charter of the United Nations and for different cultures and to the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, gender equality and friendship among peoples, ethnic, national and religious groups and persons of indigenous origin;

(f) To ensure that every child alleged or recognized as having infringed the penal law is treated with dignity in accordance with the principles and relevant provisions of the Convention;

(g) And organs and bodies of the United Nations, within the scope of their respective mandates, as well as intergovernmental and non-governmental organizations, the media and the community at large, to make the principles and provisions of the Convention widely known to adults and children alike in accordance with article 42 and to encourage training on the rights of the child for those involved in activities concerning children, for example through the programme of advisory services and technical cooperation in the field of human rights;

3. Decides, with regard to the Committee on the Rights of the Child:

(a) To request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee, while noting the temporary support given by the Plan of Action of the

United Nations High Commissioner for Human Rights to strengthen the implementation of the Convention on the Rights of the Child, based on voluntary contributions, which provides human resources to assist the Committee with the increasing workload due to the near universalization of the Convention, and requests the Office of the High Commissioner for Human Rights to brief Governments regularly on the implementation of the Plan of Action;

(b) To encourage the Committee, in monitoring the implementation of the Convention on the Rights of the Child, to continue to pay attention to the needs of children requiring special protection;

II

The girl child

4. Reaffirms the fundamental principle set forth in the Vienna Declaration and Programme of Action and in the Beijing Declaration and Platform for Action that the human rights of women and girls are an inalienable, integral and indivisible part of universal human rights;

5. Calls upon all States:

(a) To take all necessary measures and to institute legal reforms to ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, and to take effective action against violations of those rights and freedoms;

(b) And international and non-governmental organizations, individually and collectively, to set goals and to develop and effectively implement gender-sensitive strategies to address the rights and needs of children, in accordance with the Convention on the Rights of the Child, especially the rights and particular needs of girls in education, health and nutrition, and to eliminate harmful cultural attitudes and practices against girls;

(c) To eliminate all forms of discrimination against girls and the root causes of son preference, which result in harmful and unethical practices, inter alia by enacting and enforcing legislation protecting girls from violence, including female infanticide and prenatal sex selection, genital mutilation, incest, sexual abuse and exploitation, and by developing age-appropriate, safe and confidential programmes and medical, social and psychological support services to assist girls who are subjected to violence;

(d) To intensify efforts to raise awareness of and to mobilize international and national public opinion concerning the harmful effects of female genital mutilation and other traditional or customary practices

affecting the health of women and girls, in particular through education, information dissemination and training, involving, among others, public opinion leaders, educators, religious leaders, medical practitioners, women's health and family planning organizations and the media, in order to achieve the total elimination of these practices, and to support women's organizations at the national and local levels that are working for the elimination of female genital mutilation and other harmful traditional or customary practices;

III

Prevention and eradication of the sale of children and of their sexual exploitation and abuse, including child prostitution and child pornography

6. Welcomes:

(a) The report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mrs. Ofelia Calceta Santos (E/CN.4/1998/101 and Add.1 and 2), which contains a general overview of the latest developments at the national and international levels on the themes under her mandate, and focuses this year on the role of the media and of education in the prevention of the problem of commercial sexual exploitation of children and in the assistance, rehabilitation and reintegration of the child victims;

(b) The report of the working group on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on its fourth session (E/CN.4/1998/103);

(c) The measures taken by Governments to implement the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, taking note of the biennial report of the Secretary-General thereon (E/CN.4/1997/11);

7. Calls upon all States:

(a) To develop urgently, implement and enforce measures to eliminate the sale, traffic, abduction and sexual exploitation or abuse of children, including through child sex tourism, keeping in mind especially the provisions of the Convention on the Rights of the Child and the concrete measures outlined in the Vienna Declaration and Programme of Action and in the Programmes of Action approved by the Commission in 1992, 1993 and 1996, as

well as in the Declaration and Agenda for Action of the World Congress against Commercial Sexual Exploitation of Children (A/51/385, annex), held in Stockholm in August 1996 at the initiative of the Government of Sweden;

(b) To participate constructively in the negotiations on an optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography with the aim of an early agreement on the text, recalling the mandate given to the working group by the Commission in its resolution 1995/78;

(c) To criminalize effectively commercial and all other forms of sexual exploitation and sexual abuse of children, including child sex tourism, while ensuring that the child victims of such exploitation or abuse are not penalized for such practices, and to prosecute offenders, whether local or foreign, and to ensure that a person who exploits a child for sexual abuse in another country is prosecuted by competent national authorities, either in the offender's country of origin or in the destination country;

(d) To step up cooperation and concerted action, at the national and international levels, by all relevant authorities and institutions, especially those charged with law enforcement, with a view to combating the existence of a market that encourages such criminal practices against children and dismantling national and international networks trafficking in children;

(e) And relevant United Nations bodies and agencies to allocate resources for comprehensive and gender-sensitive programmes to rehabilitate physically and psychologically child victims of trafficking and of any form of sexual exploitation and abuse, and to promote their social reintegration;

(f) To work towards strengthening partnerships between Governments, international organizations and all sectors of civil society, particularly non-governmental organizations, in order to achieve these objectives, and welcomes the efforts already made in this respect;

(g) To cooperate with and assist the Special Rapporteur and to furnish all information requested, including by inviting her to visit their countries;

8. Decides, with regard to the Special Rapporteur on the sale of children, child prostitution and child pornography:

(a) To renew the mandate for a further three years and to request the Secretary-General to provide the Special Rapporteur with all necessary assistance and to urge all relevant parts of the United Nations system to provide the Special Rapporteur with comprehensive reporting to make the full

discharge of her mandate possible and to enable her to submit an interim report to the General Assembly at its fifty-third session and a report to the Commission on Human Rights at its fifty-fifth session;

(b) To invite the Special Rapporteur to continue to cooperate closely with other relevant United Nations organs and bodies and to convey her findings to the Commission on the developments and recommendations on the broad range of issues under her mandate;

9. Decides, with regard to the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography:

(a) To request the Secretary-General to transmit the report of the working group on the question of a draft optional protocol to Governments, relevant specialized agencies, the Committee on the Rights of the Child, the relevant Special Rapporteur and intergovernmental and non-governmental organizations and to invite their comments, inter alia on the scope of the optional protocol, in time for circulation prior to the next session of the working group, and invites the Committee on the Rights of the Child to consider being represented and the Special Rapporteur to consider being present at the next session of the working group;

(b) To request the working group to meet for a period of two weeks prior to the next session of the Commission and to redouble its efforts with the aim of finalizing the draft optional protocol by the tenth anniversary of the Convention on the Rights of the Child and, to that end, encourages the Chairman of the working group to conduct broad informal consultations;

IV

Protection of children affected by armed conflict

10. Welcomes:

(a) The appointment for three years of the Special Representative of the Secretary-General on the impact of armed conflict on children, as proposed by the General Assembly in its resolution 51/77 of 12 December 1996, to follow up the practical recommendations contained in the final report of the expert appointed by the Secretary-General on this question (A/51/306 and Add.1), as well as his first report (E/CN.4/1998/119);

(b) The report of the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children

in armed conflicts on its fourth session (E/CN.4/1998/102), whilst regretting that consensus was not reached during that session;

11. Calls upon all States:

(a) To consider acceding to relevant international human rights and humanitarian law instruments, and urges them to implement those instruments to which they are parties;

(b) To participate constructively in the negotiations on an optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts with the aim of an early agreement on the text and of the adoption of a higher standard of protection than the present one contained in article 38 of the Convention, recalling that the original draft used as a basis for the negotiations was prepared by the Committee on the Rights of the Child (E/CN.4/1994/91) and taking into account the report of the working group on its fourth session;

(c) In accordance with the norms of international humanitarian law, to integrate in their military programmes, including those for peacekeeping, instruction on responsibilities towards the civilian population, particularly women and children;

(d) And relevant United Nations bodies, including the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, to contribute on an ongoing basis to international mine-clearance efforts and urges States to take stronger action to promote gender- and age-appropriate mine-awareness programmes and child-centred rehabilitation, thereby reducing the number and the plight of child victims, and welcomes increased international efforts in various forums with respect to anti-personnel mines, recognizes the positive effect on children of those efforts, and in this regard takes due note of the adoption of and implementation by those States that become parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, opened for signature in Ottawa in 1997, as well as the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, of 1996;

12. Calls upon all States and other parties to armed conflict:

(a) To respect international humanitarian law and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, while bearing in mind resolution 2 of the twenty-sixth International Conference of the Red Cross and Red Crescent of 1995 entitled "Protection of civil population during armed conflict", and to respect the provisions of the Convention on the Rights of the Child which accord children affected by armed conflict special protection and treatment;

(b) To end the use of children as soldiers and to ensure their demobilization, and to implement effective measures for the rehabilitation and the reintegration into society of child soldiers, child victims in cases of armed conflict or foreign occupation, including victims of landmines and all other weapons, and victims of gender-based violence, inter alia through adequate education and training, and invites the international community to assist in this endeavour;

(c) As well as United Nations agencies to ensure access of humanitarian aid and assistance to children affected by armed conflict;

13. Reaffirms:

(a) That rape in the conduct of armed conflict constitutes a war crime and that under certain circumstances it constitutes a crime against humanity and an act of genocide, and calls upon all States to take all measures required for the protection of children and women from all acts of gender-based violence, including rape, sexual exploitation and forced pregnancy, and to strengthen mechanisms to investigate and prosecute perpetrators;

(b) That all humanitarian responses in armed conflict situations should emphasize the special reproductive health needs of girls and women, including those that arise from pregnancy as a result of rape, sexual mutilation, childbirth at an early age or infection with sexually transmitted diseases, as well as HIV/AIDS, and access to family planning services;

(c) The importance of preventive measures such as early-warning systems, preventive diplomacy and education for peace to prevent conflicts and their negative impact on the enjoyment of the rights of the child, and urges Governments and the international community to promote sustainable human development;

(d) The importance of special attention for children in situations of armed conflict, in particular in the areas of health and nutrition, education and social reintegration, in developing emergency and other humanitarian assistance policies and programmes, and of enhanced coordination and cooperation throughout the United Nations system to this end;

(e) Its support for the recommendations of the General Assembly and the International Conference of the Red Cross and Red Crescent concerning the assessment and monitoring of the consequences of sanctions upon children, as well as those concerning humanitarian relief;

14. Decides, with regard to the draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts:

(a) To request the Secretary-General to transmit the report of the working group on the draft optional protocol to Governments, relevant United Nations bodies and specialized agencies, the Committee on the Rights of the Child, the Special Representative on children in armed conflict and intergovernmental and non-governmental organizations, and to invite their comments on annex I negotiated in plenary, as well as on annex II containing the "Chairman's perception" based on informal consultations in time for circulation prior to the next session of the working group, and invites the International Committee of the Red Cross and the Committee on the Rights of the Child to consider being represented and the Special Representative to consider being present at the next session of the working group;

(b) To encourage the Chairman of the working group to conduct broad informal consultations with the aim of promoting an early agreement on the optional protocol and to produce a report thereon by the end of 1998 including, if possible, recommendations and/or ideas on the best way for the formal negotiations to proceed;

(c) To request the working group to meet in early 1999, primarily to consider the Chairman's report on the status of the informal consultations, which should be available well in advance, and to report to the Commission on Human Rights at its fifty-fifth session;

(d) To request the Secretary-General to give the necessary support to the working group to meet for a maximum of two weeks, if the working group decides that an agreement on the draft optional protocol is possible at that session;

(e) To reaffirm the aim of finalizing the draft optional protocol by the tenth anniversary of the Convention;

15. Decides, with regard to the Special Representative of the Secretary-General on the impact of armed conflict on children to recommend that the Secretary-General ensure that the necessary support is made available to the Special Representative for the effective performance of his mandate, to encourage the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights to provide support to the Special Representative, and to call upon States and other institutions to provide voluntary contributions for that purpose;

16. Decides, with regard to preventive measures, to request the Secretary-General, in cooperation with States, international organizations and relevant non-governmental organizations to consider modalities for organizing regional training programmes for members of the armed forces relating to the protection of children and women during armed conflicts;

V

Protection of refugee and internally displaced children

17. Calls upon all States:

(a) To protect refugee and internally displaced children, including through policies for their care, well-being and development, in such areas as health, education and psycho-social rehabilitation, with the necessary international cooperation, in particular with the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund and the International Committee of the Red Cross, in accordance with their obligations under the Convention on the Rights of the Child and taking into account the 1994 guidelines on protection and care of refugee children of the Office of the United Nations High Commissioner for Refugees, and the Conclusion on refugee children and adolescents adopted by the Executive Committee of the Programme of the High Commissioner at its forty-eighth session in October 1997, as well as the recommendations by the Representative of the Secretary-General on the internally displaced persons (see E/CN.4/1998/53 and Add.1 and 2);

(b) And United Nations bodies and agencies, in coordination with other international humanitarian organizations such as the International Committee of the Red Cross, to ensure the early identification and registration of

unaccompanied refugee and internally displaced children, to give priority to programmes for family tracing and reunification, and to continue monitoring the care arrangements for unaccompanied refugee and internally displaced children, taking into account the 1997 Guidelines on policies and procedures in dealing with unaccompanied children seeking asylum of the Office of the United Nations High Commissioner for Refugees;

(c) And other parties to armed conflicts to recognize that refugee and internally displaced children are particularly exposed to the risks of injury, exploitation and death in connection with armed conflicts, such as being forcibly recruited or subject to sexual violence, abuse or exploitation, stressing the special vulnerability of households headed by children, and calls upon Governments and United Nations bodies and organizations to give those situations urgent attention, enhancing protection and assistance mechanisms, with the participation of women and youth in the design, delivery and monitoring of measures to protect them;

VI

Elimination of the exploitation of child labour

18. Welcomes:

(a) The report of the Secretary-General on the elimination of the exploitation of child labour, submitted pursuant to General Assembly resolution 51/77 on the initiatives on the elimination of child labour contrary to accepted international standards and the appropriate means to improve cooperation in this area at the national and international levels (A/52/523);

(b) Recent publications and reports by the United Nations Children's Fund and the International Labour Organization on child labour, as well as the support given by them to governmental initiatives for the organization of international conferences on child labour at a regional or global level, at which declarations and programmes of action were adopted with the aim of the effective elimination of the exploitation of child labour, giving priority to the immediate elimination of the most intolerable forms of child labour and to the rehabilitation of those children and the search for alternatives;

(c) The legislative, administrative, social and educational measures taken by Governments to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with their education, or to be harmful to their health or physical, mental, spiritual,

moral or social development, taking into account in particular the relevant provisions of the Convention on the Rights of the Child and of the international instruments of the International Labour Organization, as well as the measures outlined in the Programme of Action for the Elimination of the Exploitation of Child Labour of 1993 and the Copenhagen Declaration and Programme of Action adopted by the World Summit on Social Development in 1995 (A/CONF.166/9, Chap. I), and calls upon relevant United Nations agencies and bodies, in particular the United Nations Children's Fund and the International Labour Organization, to continue to support national efforts in this regard;

(d) The efforts by the Committee on the Rights of the Child in the area of child labour, noting its recommendations on the economic exploitation of children adopted at its fifth session in January 1994 (see A/49/41), and encourages the Committee as well as other relevant human rights treaty bodies, within their respective mandates, to continue to monitor this serious problem when examining reports of States parties;

19. Calls upon all States:

(a) That have not yet done so to consider ratifying the conventions of the International Labour Organization relating to child labour, in particular those concerning the abolition of forced labour (No. 29) and the minimum age for admission to employment, including for particularly hazardous work (No. 138), and those States that are parties to those conventions to implement them effectively and urges all States, as a matter of priority, to eliminate all extreme forms of child labour such as forced labour, bonded labour and other forms of slavery;

(b) To eliminate progressively and effectively all forms of child labour contrary to the accepted international standards, starting with its most grave and intolerable forms, inter alia by implementing national action plans with specific target dates, as well as supporting the upcoming negotiations at the International Labour Organization for the early finalization of a future instrument aimed at eradicating the most intolerable forms of child labour;

(c) To recognize the right to education by making primary education compulsory and ensuring that all children have access to free and relevant primary education as a key strategy to prevent child labour, as well as making secondary education generally available and accessible to all, and in particular by the progressive introduction of free education;

(d) To systematically assess and examine, in close cooperation with international organizations such as the International Labour Organization and the United Nations Children's Fund, the magnitude, nature and causes of the exploitation of child labour, and to develop and implement strategies for combating those practices, giving special attention to specific dangers faced by girls;

(e) To strengthen international cooperation and coordination, inter alia through the United Nations programme of advisory services in the field of human rights, the International Programme on the Elimination of Child Labour of the International Labour Organization and activities of the United Nations Children's Fund, as a means of assisting Governments in preventing and combating violations of the rights of the child, in particular the exploitation of child labour;

VII

The plight of children working and/or living on the street

20. Calls upon:

(a) All States, while expressing grave concern at the large number of children working and/or living on the street and at the continued growth in incidents and reports worldwide of such children being involved in and affected by serious crime, drug trafficking and abuse, violence and sexual exploitation, including through prostitution, to continue actively to seek comprehensive solutions to the problems of children working and/or living on the street, while emphasizing that strict compliance with obligations under relevant international human rights instruments, including the Convention on the Rights of the Child, constitutes a significant step towards solving the problems of children working and/or living on the street;

(b) All States to ensure the reintegration of children working and/or living on the street into society and to provide, inter alia, adequate nutrition, shelter, health care and education, taking into account that such children are particularly vulnerable to all forms of violence, abuse, exploitation and neglect, and encourages States to take the situation of children working and/or living on the street fully into account in preparing their reports to the Committee on the Rights of the Child, and requests the Committee and other relevant treaty monitoring bodies, within their existing mandates, to give due attention to the question of children working and/or living on the street;

(c) All States to guarantee respect for all human rights and fundamental freedoms, particularly the right to life, and to take urgent and effective measures to prevent the killing of children working and/or living on the street and to combat torture and violence against them, and to ensure that legal and juridical processes respect children's rights in order to protect them against arbitrary deprivation of liberty, maltreatment or abuse;

(d) The international community to support, through effective international cooperation, the efforts of States to improve the situation of children in need of special protection measures, including in urban settlements in accordance with the Habitat Agenda (A/CONF.165/14) adopted by the United Nations Conference on Human Settlements (Habitat II), held in Istanbul, Turkey, in June 1996;

VIII

Children with disabilities

21. Welcomes the attention given by the Committee on the Rights of the Child, when considering the reports of the States parties to the Convention, to the subject of the rights of children with physical or mental disabilities to enjoy their lives with dignity and to their individual development and social integration, as well as the general debate on this issue, starting at the sixteenth session of the Committee in 1997, focused on the rights to life and development, self-representation and full participation and the right to an inclusive education, with the aim of preparing recommendations for the effective implementation of the Convention, and invites the Committee to continue its task in cooperation with the representatives of the relevant United Nations bodies and organizations, non-governmental organizations and the Special Rapporteur on disabled persons of the Commission for Social Development;

22. Calls upon all States parties to adopt, in accordance with article 23 of the Convention on the Rights of the Child, all necessary measures to ensure the full enjoyment in equal conditions of all human rights and fundamental freedoms by children with disabilities, especially ensuring the effective access of such children to education and health services, to develop and implement legislation prohibiting discrimination against these children and to include these measures in their reports to the Committee on the Rights of the Child;

IX

23. Decides:

(a) To request the Secretary-General to submit to the Commission at its fifty-fifth session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child and on the problems addressed in the present resolution;

(b) To continue its consideration of the question at its fifty-fifth session under the agenda item entitled "Rights of the child".

58th meeting
22 April 1998
[Adopted without a vote. See chap. XX.]

1998/77. Conscientious objection to military service

The Commission on Human Rights,

Bearing in mind that it is recognized in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights that everyone has the right to life, liberty and security of person, as well as the right to freedom of thought, conscience and religion and the right not to be discriminated against,

Recalling its previous resolutions on the subject, most recently 1995/83 of 8 March 1995, in which it recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as well as article 18 of the International Covenant on Civil and Political Rights and General Comment No. 22 (48) of the Human Rights Committee,

Having considered the report of the Secretary-General (E/CN.4/1997/99),

Recognizing that conscientious objection to military service derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives,

Aware that persons performing military service may develop conscientious objections,

Recalling article 14 of the Universal Declaration of Human Rights which recognizes the right of everyone to seek and enjoy in other countries asylum from persecution,

1. Draws attention to the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to

freedom of thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights;

2. Welcomes the fact that some States accept claims of conscientious objection as valid without inquiry;

3. Calls upon States that do not have such a system to establish independent and impartial decision-making bodies with the task of determining whether a conscientious objection is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs;

4. Reminds States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature;

5. Emphasizes that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment and to repeated punishment for failure to perform military service, and recalls that no one shall be liable or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country;

6. Reiterates that States, in their law and practice, must not discriminate against conscientious objectors in relation to their terms or conditions of service, or any economic, social, cultural, civil or political rights;

7. Encourages States, subject to the circumstances of the individual case meeting the other requirements of the refugee definition as set out in the 1951 Convention relating to the Status of Refugees, to consider granting asylum to those conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service and there is no, or no adequate provision for conscientious objection to military service;

8. Affirms the importance of the availability of information about the right to conscientious objection to military service, and the means of acquiring conscientious objector status, to all persons affected by military service;

9. Requests the Secretary-General to transmit the present resolution to Governments, the specialized agencies and relevant intergovernmental and non-governmental organizations and to include the right to conscientious objection to military service in the public information activities of the United Nations, including the United Nations Decade for Human Rights Education;

10. Also requests the Secretary-General to collect information from Governments, the specialized agencies and intergovernmental and non-governmental organizations on recent developments in this field and to submit a report, within existing resources, to the Commission on Human Rights at its fifty-sixth session;

11. Decides to consider this matter further at its fifty-sixth session under the agenda item "The question of conscientious objection to military service".

58th meeting
22 April 1998
[Adopted without a vote. See chap. XXII.]

1998/78. Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action

The Commission on Human Rights,

Recalling General Assembly resolution 48/121 of 20 December 1993, in which the Assembly endorsed the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, as well as subsequent resolutions of the Assembly and of the Commission on this matter, in particular General Assembly resolution 52/148 of 12 December 1997,

Considering that the promotion of universal respect for and observance of all human rights and fundamental freedoms for all is one of the basic purposes of the Charter of the United Nations and one of the main priorities of the Organization,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated,

Convinced that the Vienna Declaration and Programme of Action has to be translated into effective action by States, the competent United Nations organs and organizations and other organizations concerned, including non-governmental organizations,

Recalling part II, paragraph 100, of the Vienna Declaration and Programme of Action concerning the five-year review of progress made in the implementation of the Vienna Declaration and Programme of Action, to be carried out in 1998, in which the World Conference on Human Rights, inter alia, requested the Secretary-General to invite, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, all States and all organs and agencies of the United Nations system related to human rights to report to him on the progress made in the implementation of the Vienna Declaration and Programme of Action,

Recalling also that regional and, as appropriate, national human rights institutions, as well as non-governmental organizations, may present their views to the Secretary-General on the progress made in the implementation of the Vienna Declaration and Programme of Action, and that special attention should be paid to assessing the progress towards the goal of universal ratification of international human rights treaties and protocols adopted within the framework of the United Nations,

Bearing in mind that the five-year implementation review of the Vienna Declaration and Programme of Action provides an opportunity to strengthen the promotion and protection of human rights worldwide, review and assess progress made in human rights protection since the adoption of the Universal Declaration and the Vienna Declaration and Programme of Action, and consider ways and means to further develop the United Nations human rights programme to meet current and future challenges,

Recognizing that the interdependence of democracy, development and respect for human rights, as stated in the Vienna Declaration and Programme of Action, requires a comprehensive and integrated approach to the promotion and protection of human rights and that adequate inter-agency cooperation and coordination are essential in order to ensure such a fully integrated approach throughout the United Nations system,

Welcoming the fact that the call of the World Conference on Human Rights for a United Nations system-wide approach to human rights issues has been

reflected in the recommendations of major international conferences organized by the United Nations in the economic, social and related fields,

Noting the ongoing efforts to ensure a coordinated follow-up to major international conferences in the economic, social and related fields, as most recently addressed in Economic and Social Council resolution 1997/61 of 25 July 1997 on the integrated and coordinated implementation and follow-up of the major United Nations conferences and summits,

Recalling that each year the Economic and Social Council shall carry out, within the framework of its coordination segment, a review of cross-cutting themes common to major international conferences and/or contribute to an overall review of the implementation of the programme of action of a United Nations conference, in accordance with agreed conclusions 1995/1 of the Economic and Social Council,

Recalling Economic and Social Council decision 1998/208 of 6 February 1998 to devote the coordination segment of the Council at its substantive session of 1998 to the question of the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action,

Noting General Assembly resolution 52/148 in which the Assembly, inter alia, decided to review at its fifty-third session, as foreseen in part II, paragraph 100, of the Vienna Declaration and Programme of Action, the progress made in the implementation of the Vienna Declaration and Programme of Action,

1. Takes note with appreciation of the interim report of the United Nations High Commissioner for Human Rights on the five-year review of the implementation of the Vienna Declaration and Programme of Action (E/CN.4/1998/104);

2. Welcomes the contributions made so far by Governments, United Nations bodies and organizations and other organizations, and calls upon the High Commissioner to make these and subsequent contributions available to the General Assembly at its fifty-third session;

3. Reaffirms the importance of the promotion of universal respect for and observance and protection of all human rights and fundamental freedoms in accordance with the Charter of the United Nations, as expressed in the Vienna Declaration and Programme of Action;

4. Calls upon all States to take further action with a view to the full realization of all human rights for all in the light of the recommendations of the Conference;

5. Recognizes that the international community should devise ways and means to remove current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting therefrom throughout the world;

6. Requests the United Nations High Commissioner for Human Rights, the General Assembly, and other organs and bodies of the United Nations system related to human rights to take further action with a view to the full implementation of all the recommendations of the Conference;

7. Welcomes the decision of the General Assembly to review at its fifty-third session, as foreseen in part II, paragraph 100, of the Vienna Declaration and Programme of Action, the progress made in the implementation of the Vienna Declaration and Programme of Action;

8. Recalls that, in accordance with part II, paragraph 100, of the Vienna Declaration and Programme of Action, the High Commissioner has invited Governments and United Nations agencies and programmes related to human rights to provide reports on the progress made in the implementation of the recommendations adopted by the World Conference, and has invited regional and, as appropriate, national human rights institutions, as well as non-governmental organizations, to present their views in this regard;

9. Welcomes with appreciation the preparations and contributions made so far for the five-year implementation review of the Vienna Declaration and Programme of Action and calls upon all States to contribute actively to this process;

10. Encourages once again regional and national human rights institutions as well as non-governmental organizations to present, on that occasion, their views on the progress made in the implementation of the Vienna Declaration and Programme of Action;

11. Welcomes Economic and Social Council decision 1998/208 to devote the coordination segment of the Council at its substantive session of 1998 to the question of the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action, as part of the five-year review foreseen

in part II, paragraph 100, of the Vienna Declaration and Programme of Action, and calls upon all United Nations programmes and agencies to participate actively in this process;

12. Underlines the need to give particular attention to the human rights of women and the girl child in the five-year review of the Vienna Declaration and Programme of Action, taking into account that gender mainstreaming is a key strategy for achieving equality between women and men and the full enjoyment of all human rights by women;

13. Emphasizes the important role of the United Nations High Commissioner for Human Rights in the system of the United Nations human rights organs, as defined in General Assembly resolution 48/141, including her role in the process of analysis of the functioning of the United Nations human rights machinery and its adaptation to current and future needs;

14. Requests the High Commissioner for Human Rights to continue to coordinate the human rights promotion and protection activities throughout the United Nations system, as set out in General Assembly resolution 48/141, including through a permanent dialogue with the United Nations programmes and agencies whose activities deal with human rights;

15. Invites the Administrative Committee on Coordination to continue to discuss the implications of the Vienna Declaration and Programme of Action for the United Nations system, with the participation of the High Commissioner, in particular in the context of the 1998 five-year review;

16. Urges all States and the United Nations system to give widespread publicity to the Vienna Declaration and Programme of Action, in particular in the context of the public information and human rights education activities for the fiftieth anniversary of the Universal Declaration of Human Rights, including through training programmes, human rights education and public information, in order to promote increased awareness of all human rights and fundamental freedoms;

17. Decides to continue the consideration of this question at its fifty-fifth session.

58th meeting
22 April 1998
[Adopted without a vote. See chap. XXI.]

1998/79. Situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The Commission on Human Rights,

Recalling all relevant resolutions on this subject, in particular its own resolution 1997/57, of 15 April 1997,

Expressing its full support for the General Framework for Peace in Bosnia and Herzegovina (the "Framework Agreement") and the annexes thereto (together, the "Peace Agreement") which, inter alia, committed the parties in Bosnia and Herzegovina to respect fully human rights, and for the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium,

Reaffirming the territorial integrity of all States in the region, within their internationally recognized borders,

Taking note of the reports of the former Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) - the FRY - together, the countries of the mandate,

Expressing its appreciation for the ongoing important work of the Office of the High Commissioner for Human Rights and its field operation in the region,

I

Introduction

1. Stresses the crucial role that human rights questions have to play in the success of the Peace Agreement and underlines the obligations of the parties under the Framework Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms;

2. Stresses the need to focus international human rights efforts in the region on the core problems of:

(a) Lack of full respect for the human rights of all individuals, without any distinction;

(b) Return of refugees and displaced persons in safety and in dignity;

(c) Capacity-building in the areas of rule of law and administration of justice;

(d) Lack of respect for the freedom and independence of the media;

(e) Inadequate cooperation with the International Criminal Tribunal for the Former Yugoslavia (the Tribunal);

(f) Missing persons;

3. Appeals to the international community to support such efforts and insists that the parties act to promote and protect democratic institutions of government, the rule of law and effective administration of justice at all levels in their respective countries, to further ensure freedom of expression and of the media, to allow and encourage freedom of association, including with respect to political parties, and to ensure freedom of movement and to foster a culture of respect for human rights;

II

Bosnia and Herzegovina

4. Welcomes progress in some areas towards implementation of the Peace Agreement and towards the improvement in respect for human rights as demonstrated by the important work of the Office of the Federation Ombudsmen, some positive developments in the Republika Srpska since the formation of the new government, the voluntary surrender of persons indicted by the Tribunal, improvement in freedom of movement in some areas, police restructuring in the Bosnian Federation and parts of the Republika Srpska, increased cooperation with the International Police Task Force and generally full and free access to the territory of Bosnia and Herzegovina for international institutions and organizations, including non-governmental organizations;

5. Also welcomes the work of the Commission on Human Rights for Bosnia and Herzegovina and its two parts, the Office of the Ombudsman and the Human Rights Chamber, and their decisions, and underlines the importance of their intensifying their activities concerning alleged or apparent violations of human rights and alleged or apparent discrimination of any kind;

6. Further welcomes the conclusions of the Peace Implementation Council meetings held in Paris on 14 November 1996, in Sintra, Portugal, on 30 May 1997 and in Bonn on 9 and 10 December 1997;

7. Takes note of the successful holding of countrywide municipal elections on 13 and 14 September 1997 in Bosnia and Herzegovina and of elections for the Republika Srpska Assembly on 22 and 23 November 1997 under the auspices of the Organization for Security and Cooperation in Europe, and calls for full and unconditional implementation of the municipal election results;

8. Emphasizes that the primary responsibility for ensuring the progressive achievement of democratic goals and building a tolerant, multi-ethnic society lies with the people of Bosnia and Herzegovina, in particular through the central Government and the governments of the entities, as well as through, inter alia, religious communities, humanitarian organizations and non-governmental organizations;

9. Reiterates calls in its previous resolutions upon all authorities in Bosnia and Herzegovina concerning:

(a) Bringing legislation into full compliance with the human rights provisions of the Constitution of Bosnia and Herzegovina and implementing this legislation;

(b) Prevention of and accountability for human rights violations;

(c) Full implementation by the authorities of the Republika Srpska and the Federation of existing laws providing amnesty for crimes related to the conflict, other than serious violations of international humanitarian law, and, in the case of the Republika Srpska, the immediate amendment of its law to provide amnesty for persons who avoided conscription or deserted;

(d) Full cooperation with the Commission on Human Rights for Bosnia and Herzegovina and full implementation of its recommendations and decisions, and especially to fulfil their obligations to provide financial support for the Commission's activities;

(e) Putting an end to beatings, unlawful evictions and other forms of harassment, and the prosecution to the full extent of the law before an independent and impartial tribunal of those identified in the report of the International Police Task Force concerning the incidents in Mostar on 10 February 1997;

(f) The establishment without delay in the Republika Srpska of institutions for the protection of human rights, in particular a human rights ombudsman;

10. Calls upon authorities in Bosnia and Herzegovina:

(a) To complete the reform and restructuring of local police forces under the purview of the International Police Task Force as soon as possible and to ensure that local police forces are trained in and fully respect and protect all human rights;

(b) To reverse the effects of "ethnic cleansing", to allow freedom of movement and the return, especially "minority return", of refugees and

displaced persons to their places of origin, to fully implement the concept of "Open Cities" to provide security guarantees for returnees, to cease immediately actions that undermine the right to return, to take immediate steps to repeal legislation which infringes on the right to return and to put an end to practices of discrimination based on ethnic and political grounds, and calls for the Federation to implement fully the results of the international conference on the return of displaced persons and refugees to Sarajevo, held in Sarajevo on 3 February 1998;

(c) To bring without delay property and housing legislation at all levels fully into line with the proposals of the High Representative and to fully and speedily implement it once adopted;

(d) To repeal laws relating to "abandoned" property, to end illegal evictions of persons from their homes, to reinstate in their homes persons who have been evicted in violation of their rights, to cooperate with and support the work of the Commission for Real Property Claims to resolve outstanding property claims and to implement fully the decisions of that Commission;

(e) To cooperate fully with the Office of the High Representative and institutions established by the Peace Agreement with a view to strengthening free and independent media, to diversifying the media environment, while reminding broadcast media of their special responsibility to observe and promote international standards of journalism, and developing an appropriate legislative framework for the protection of the editorial independence of the media, in particular those under the control of the authorities;

(f) To ensure the necessary conditions for free and fair elections to be held in 1998 under the supervision of the Organization for Security and Cooperation in Europe, and to comply with arbitration decisions regarding recent municipal elections;

(g) To cooperate closely with the International Supervisor for Brcko, and to work towards meeting the conditions of tolerance and pluralism as stressed by the Presiding Arbitrator in his decision of 15 March 1998;

(h) To work towards reform of criminal law in both entities;

11. Reiterates its calls in its resolution 1997/57 upon the international community concerning supporting all aspects of the work of the International Police Task Force, the return in safety of persons who have left the territory of Bosnia and Herzegovina and full support, including through voluntary contributions, for the Constitutional Court;

III

Republic of Croatia

12. Welcomes the successful completion of the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, the accession by the Republic of Croatia to the Council of Europe, the ratification of the European Convention on Human Rights and other relevant human rights instruments by the Government of the Republic of Croatia, and its cooperation with the Special Rapporteur;

13. Also welcomes technical cooperation and assistance programmes planned by the Office of the High Commissioner for Human Rights in consultation with the Government of Croatia, and calls upon the High Commissioner to initiate, at the earliest possible opportunity, projects emphasizing human rights training for professionals involved in law enforcement and the rule of law, as well as human rights education;

14. Calls upon the Government of the Republic of Croatia to undertake greater efforts to adhere to democratic principles and to continue its efforts to attain the highest level of compliance with international norms and standards of human rights and fundamental freedoms and:

(a) To accelerate the implementation of its Programme for Confidence-Building and the normalization of life in the war-affected regions of Croatia, thereby facilitating the expeditious return, in safety and in dignity, of all refugees and displaced persons to their homes in all regions, in particular to the Krajina, to cooperate with the United Nations High Commissioner for Refugees to that end, and to use all available means to secure their safety and to allow continued access to this population by humanitarian organizations;

(b) To respect the human rights, including the property rights, of all, including in particular returning displaced persons and refugees, including ethnic Serbs now present in the Republika Srpska or the FRY, their right to remain, leave or return in safety and dignity, and to enable the restoration of the multi-ethnic character of Eastern Slavonia, Baranja, Western Sirmium and other parts of the Republic of Croatia;

(c) To put an end to harassment of displaced Serbs, looting and physical attacks against Croatian Serbs and to encourage them to stay within the Republic of Croatia and, in particular, to put an end to the involvement by Croatian military and police officials in such incidents, and to

investigate and arrest speedily those responsible for committing or instigating acts of violence and intimidation aimed at driving people away;

(d) To guarantee freedom of association and of the press, including taking concrete steps to establish editorially independent State electronic media and full access by the opposition to State channels and, in particular, to cease harassment of free and independent media;

(e) To extend full cooperation to the international organizations operating in the Republic of Croatia, in particular the Organization for Security and Cooperation in Europe and the United Nations Police Support Group remaining in Eastern Slavonia, Baranja and Western Sirmium, and to heed the advice of the Organization for Security and Cooperation in Europe in matters pertaining to its mandate;

(f) To respect the right of non-governmental organizations to operate without restrictions;

(g) To pursue, within the context of obligations undertaken to the Council of Europe, the equal application of the law to all citizens, irrespective of ethnicity, religion, or political affiliation, to ensure the swift and complete implementation of judicial decisions, and to implement the European Convention on Human Rights in all governmental practices;

(h) To continue fulfilling the rights and guarantees pledged in its letter of 13 January 1997 (S/1997/27), inter alia the pledge to guarantee representation of Serbs at various levels of local, regional and national government, and to this end to fulfil its obligations to issue citizenship, identity and relevant technical documents to all persons so entitled under Croatian law;

(i) To implement the Amnesty Law enacted on 25 September 1996 fully and fairly;

(j) To continue to cooperate with the Special Rapporteur and to comply with all his recommendations and to cooperate with the Croatian ombudsman;

15. Calls upon the international community:

(a) To support the United Nations Civilian Police remaining in the field in 1998 and also to support the involvement of the High Commissioner in human rights monitoring in the region of Eastern Slavonia, in close cooperation with other international organizations and in close consultation with the Government of Croatia;

(b) To provide for a continued international presence, as recommended by the Special Rapporteur, through support of initiatives advanced by the High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe, the Council of Europe, the European Community Monitoring Mission and other international organizations, including the programme of technical cooperation envisioned by the Office of the High Commissioner for Human Rights;

IV

Federal Republic of Yugoslavia (Serbia and Montenegro) - the FRY

16. Welcomes cooperation by the FRY with the former Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), Ms. Elisabeth Rehn;

17. Also welcomes the recent visit by the new Special Rapporteur, Mr. Jiri Dienstbier, to the FRY;

18. Further welcomes the deployment of additional human rights officers in Kosovo;

19. Endorses the recommendations of the Special Rapporteur as contained in his report on his visit to the FRY, including Kosovo, in particular that:

(a) The FRY should permit forensic investigation by independent experts concerning the 28 February operations in Likosani and Cirez and the 5 March operations in Prekaz, and should also conduct its own investigation of these events;

(b) That the Kosovo Albanian leadership should commit itself to ensure that the Kosovo Albanian community shall pursue their goals only by peaceful means;

(c) That all parties should allow free access for international and humanitarian organizations and the establishment of a temporarily expanded office of the High Commissioner for Human Rights operating out of the permanent premises to be established in Kosovo;

20. Regrets that the FRY has complied only partially with the recommendations of the Chairman in Office of the Organization for Security and Cooperation in Europe regarding fostering democracy and the rule of law;

21. Also regrets the express refusal of the FRY to allow a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions;

22. Calls upon authorities in the FRY:

(a) To comply with the recommendations contained in the reports of the Special Rapporteur;

(b) To comply also with its obligation to cooperate with the Tribunal;

(c) To undertake substantially greater efforts to strengthen and implement fully democratic norms, especially in regard to respect for the principle of free and fair elections, the rule of law, and full respect for human rights and fundamental freedoms, and to improve its performance in the area of the administration of justice;

(d) To protect and expand opportunities for free and independent media, institute non-partisan management of the State-owned media and cease efforts to restrict press and broadcast journalism;

(e) To put an end to torture and ill-treatment of persons in detention as described in the reports of the Special Rapporteur, and to bring those responsible to justice;

(f) To repeal the 1989 Law on Special Conditions for Real Property Transactions and to apply all other legislation without discrimination;

(g) To respect the rights of persons belonging to minority groups, especially in Sandjak and Vojvodina, and of persons belonging to the Bulgarian and Croatian minorities;

23. Condemns violent repression of non-violent expression of political views in Kosovo, in particular the brutal police actions as well as the excessive use of force against the civilian population, including demonstrators and journalists among the Albanian population, condemns as well the killing of innocent civilians, equally condemns terrorism in all its forms and from any quarter, and underscores the grave concern of Member States regarding the increasingly serious situation there;

24. Urges all parties in the FRY to act with the utmost restraint and with full respect for human rights, and to refrain from acts of violence;

25. Insists that the Government of the FRY:

(a) Take immediate action, in view of the deteriorating situation in Kosovo and the danger of escalating violence there, to put an end to the continuing repression of and prevent violence against the ethnic Albanian population, as well as other communities living in Kosovo, including acts of harassment, beatings, brutality, torture, warrantless searches, arbitrary detention, unfair trials and arbitrary, unjustified evictions and dismissals;

(b) Ensure the complete withdrawal of its special police from Kosovo;

(c) Release all political detainees, allow the return in safety and dignity of ethnic Albanian refugees to Kosovo and respect fully all human rights and fundamental freedoms, including freedom of the press, freedom of movement and freedom from discrimination in the field of education and information and, in particular, improve the situation of ethnic Albanian women and children;

(d) Allow the establishment of democratic institutions in Kosovo;

(e) Agree to the establishment of an office of the High Commissioner for Human Rights in Pristina;

(f) Broaden cooperation with other regional and international actors, including by allowing the return of the long-term missions of the Organization for Security and Cooperation in Europe, visits by the personal representative of the Chairman in Office of the Organization for Security and Cooperation in Europe and the establishment of a European Union presence in Kosovo;

(g) Implement the September 1996 "Sant' Egidio" memorandum of understanding on education in Kosovo immediately and without conditions, including at the university level, as an important first step towards reducing regional tensions, while welcoming efforts made in that regard;

26. Emphasizes the importance of a substantive, unconditional dialogue between authorities in Belgrade and the Kosovo Albanian leadership aimed at achieving a lasting resolution to the problems of Kosovo consistent with the territorial integrity of the FRY, and notes the proposals made by the Government of the FRY in that direction;

27. Also emphasizes that improvements in the promotion and protection of human rights and political freedoms in Kosovo and the rest of its territory as well as cooperation with the Tribunal will assist the FRY to improve relations with the international community;

28. Welcomes positive developments in Montenegro, including in the areas of freedom of the media and the treatment of ethnic minorities, and also welcomes the formation of a multi-ethnic coalition government;

29. Calls upon the international community:

(a) To establish appropriate safeguards to ensure the security and fair treatment upon return of those who sought temporary protection and

asylum, including appropriate measures by Governments, such as legal guarantees and follow-up mechanisms, to allow those persons to return to their homes in the FRY in safety and dignity;

(b) To continue to support existing national democratic forces and non-governmental organizations in their efforts to build a civil society and achieve multi-party democracy in the FRY;

V

International Criminal Tribunal for the Former Yugoslavia

30. Calls upon all States and, in particular, all parties to the Peace Agreement, especially the Government of the FRY, to meet their obligations to cooperate fully with the Tribunal, noting that there is no valid constitutional or statutory reason for failure to cooperate, and urges all States and the Secretary-General to support the Tribunal to the fullest extent possible, in particular by helping to ensure that persons indicted by the Tribunal stand trial before it and, as a matter of urgency, by continuing to make available to the Tribunal adequate resources to aid in the fulfilment of its mandate, including through the provision of legal and technical expertise;

31. Welcomes the decision by the Prime Minister of the Republika Srpska to allow the Tribunal to open an office in Banja Luka and urges the government of the Republika Srpska to follow through on promises to improve cooperation with the Tribunal;

32. Also welcomes in this context the decision by four persons indicted by the Tribunal who are residents of the Republika Srpska to surrender voluntarily to the custody of the Tribunal as required by the Peace Agreement, and calls upon all indicted persons to do likewise;

33. Calls upon authorities in the FRY to comply with their obligation to cooperate with the Tribunal, including with regard to events in Kosovo, on the basis of Security Council resolution 1160 (1998), and strongly recommends that the Office of the Prosecutor of the Tribunal begin gathering information relating to the violence in Kosovo that may fall within its jurisdiction;

34. Notes that the authorities of Bosnia and Herzegovina have in general respected the "rules of the road" agreed in Rome on 18 February 1996 by arresting or detaining only those war crimes suspects sought by the Tribunal, by submitting all cases involving suspected war crimes to the Tribunal for review prior to prosecution by national courts and by facilitating access to detainees by the Tribunal and other monitors and

representatives of non-governmental organizations, and urges all parties to the Peace Agreement to do the same, including through submission of cases to the Prosecutor of the Tribunal under the "rules of the road";

35. Urgently calls once again upon competent authorities in Bosnia and Herzegovina, including those of the Federation and in particular in the Republika Srpska, and the Governments of the Republic of Croatia and the FRY to apprehend and surrender for prosecution, as required by Security Council resolution 827 (1993) and the statement by the President of the Security Council on 8 May 1996, all persons indicted by the Tribunal and notes that the large majority of those indicted, including Radovan Karadzic and Ratko Mladic, appear to be living in the Republika Srpska or the FRY;

36. Calls upon the international community to give the Tribunal every appropriate help to bring into custody suspects indicted by it;

VI

Missing persons

37. Calls upon all parties to treat the subject of missing persons as an urgent humanitarian problem, to make full disclosure of available information to the Working Group on Missing Persons Chaired by the International Committee of the Red Cross, and to abandon the principle of reciprocity in dealing with this question;

38. Endorses in this regard the recent efforts of the International Commission on Missing Persons in the Former Yugoslavia and requests that the International Commission continue and intensify its efforts to provide essential supplies for the Bosnian exhumation process, to provide resources and organizational support for families and family associations of the missing in the region, to support the forensic efforts of non-governmental organizations and bring the concerns of families to the attention of the political leadership of all three countries;

39. Commends the International Commission for securing the release in August 1997 of 16 prisoners of war held by the Republic of Croatia and for obtaining from the FRY all 1,200 Vukovar death protocols for the Republic of Croatia;

40. Also commends Serb, Croat and Bosniac leaders for restarting the joint exhumation process chaired by the Office of the High Representative;

41. Specifically calls upon the parties:

(a) To immediately release any individuals held as a result of, or in relation to any conflict between or among them (so-called "hidden detainees"), to provide information on specific lists of detainees unaccounted for and presented to the relevant authorities by the International Committee of the Red Cross, and to allow unannounced visits to actual or alleged places of detention in order to investigate allegations transmitted to international actors by families of the missing;

(b) To resume and expand the joint exhumation process in Bosnia and Herzegovina under the auspices of the Office of the High Representative as soon as possible, and to refrain from compromising mass grave sites or destroying forensic evidence;

(c) To comply with their obligations to investigate enforced disappearances and support the relevant international actors dealing with this issue, including the Working Group of the International Committee of the Red Cross, and exhorts State commissions on missing persons, as well as Bosniac, Croat and Serb commissions in Bosnia and Herzegovina, to intensify joint work and to cooperate with exhumations;

42. Calls upon the Government of the Republic of Croatia to turn over all relevant material on missing persons, and specifically to transfer relevant documentation on its actions relating to its 1995 "Flash" and "Storm" operations to the International Committee of the Red Cross and the International Commission on Missing Persons;

43. Calls upon the Bosnian Serb authorities to support the reconciliation process by reaching out to family associations from all ethnic groups and to allow burial of remains in the Srebrenica area;

44. Stresses the necessity of close coordination on the issue between relevant international organizations and welcomes the commitments made by the Office of the High Representative to give priority to the question of missing persons, in particular by taking active steps to ensure that excavations and exhumations are carried out to the fullest extent possible;

45. Calls upon the international community:

(a) To provide the appropriate financial, personnel and logistical resources to the International Commission on Missing Persons and the Office of the High Representative to support the exhumation and identification process

and provide support to family associations in all three countries so that they can resolve the question of missing persons and accomplish their tasks without delay;

(b) To ensure that excavations and exhumations of mortal remains are undertaken in conformity with internationally accepted practice;

VII

Special Rapporteur

46. Expresses its appreciation to the former Special Rapporteur, Ms. Elisabeth Rehn, for the positive impact her work has had on the enjoyment of human rights in the countries of her mandate;

47. Takes note with appreciation of the reports of the special rapporteurs (E/CN.4/1998/9, 12, 13, 14, 15, 63 and 164);

48. Decides to renew the mandate of the Special Rapporteur for one year and welcomes the appointment of a new Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

49. Requests the new Special Rapporteur, in addition to the activities mandated in its resolutions 1994/72, 1996/71 and 1997/57:

(a) To work with the High Commissioner for Human Rights on behalf of the United Nations in dealing with the question of missing persons, including by participation in the International Commission on Missing Persons advisory group and other groups involved in missing persons issues, such as those chaired by the Office of the High Representative and the International Committee of the Red Cross, and to include in his report to the Commission information about activities concerning missing persons in the former Yugoslavia;

(b) To pay particular attention to the situation of persons belonging to ethnic minorities and displaced persons, refugees and returnees who fall within his mandate;

(c) To address human rights issues that transcend the borders between the States covered by his mandate and which can be addressed only through concerted action in more than one country;

50. Requests that the Special Rapporteur carry out missions to:

(a) Bosnia and Herzegovina;

(b) The Republic of Croatia, including Eastern Slavonia, Baranja and Western Sirmium;

(c) The Federal Republic of Yugoslavia (Serbia and Montenegro), including to Kosovo, as well as to Sandjak and Vojvodina;

51. Requests the Special Rapporteur to report to the Commission, at its fifty-fifth session, on the work carried out in fulfilment of his mandate and to present interim reports to the General Assembly at its fifty-third session;

52. Requests the Secretary-General to continue to make the Special Rapporteur's reports available to the Security Council and to the Organization for Security and Cooperation in Europe;

53. Urges the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur to carry out his mandate successfully and, in particular, to provide him with adequate staff based in those territories to ensure effective continuous monitoring of the human rights situation in the countries of the mandate and coordination with other international organizations involved.

59th meeting
22 April 1998
[Adopted by a roll-call vote of 41 votes to none, with 12 abstentions. See chap. X.]

1998/80. Situation of human rights in the Islamic Republic of Iran

The Commission on Human Rights,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that the Islamic Republic of Iran is a party to the International Covenants on Human Rights,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, the most recent of which are Assembly resolution 52/142 of 12 December 1997 and Commission resolution 1997/54 of 15 April 1997,

1. Welcomes:

(a) The report of the Special Representative of the Commission (E/CN.4/1998/59 and Corr.1);

(b) The stated commitment of the Government of the Islamic Republic of Iran to encourage respect for the rule of law and its emphasis on the development of a society in which human rights are fully respected and in which a civil society flourishes;

(c) Improvements in the area of freedom of expression, particularly in the media and cultural fields, and in the authorities' willingness to allow more public demonstrations;

2. Notes with interest:

(a) The holding of presidential elections in the Islamic Republic of Iran in 1997, and in this context calls upon the Government to meet expectations for tangible progress concerning human rights and fundamental freedoms of individuals;

(b) The establishment of the Commission for Ensuring and Supervising the Implementation of the Constitution with a remit to address any shortcomings in the implementation or any violation of the Constitution;

(c) Positive statements by the Government of the Islamic Republic of Iran about the need to review laws and attitudes which discriminate against women, and the appointment of Iran's first woman Vice-President and of four female judges;

(d) The observation of the Special Representative about the increased willingness of the Iranian authorities to criticize and clamp down on extrajudicial groups who attempt to curtail freedom of expression;

(e) The initiative of the Islamic Human Rights Commission in investigating incidents of concern, and the view of the Special Representative that these moves represent an important step in the strengthening of human rights in Iran;

(f) The registration of certain non-governmental organizations, as well as a journalists' association;

3. Expresses its concern:

(a) That in spite of this progress, human rights continue to be violated in the Islamic Republic of Iran, in particular the large number of executions in the apparent absence of respect for internationally recognized safeguards, cases of torture and cruel, inhuman or degrading treatment or

punishment, including amputation, stoning and public executions, the failure to meet international standards in the administration of justice and the absence of due process of law;

(b) At the lack of transparency in the judicial system which makes it difficult for Iranian and foreign observers to establish accurately the situation of individuals, such as Mr. Morteza Firouzi, accused of crimes;

(c) At continuing grave violations of the human rights of the Baha'is, as well as the discrimination against members of other religious minorities, including Christians, despite constitutional guarantees, the increased pressure on religious communities and persons suspected of proselytizing, and the death sentences pronounced against Mr. Dhabihullah Mahrami and Mr. Musa Talibi on the charge of apostasy, and against Mr. Bihnam Mithaqi and Mr. Kayvan Khalajabadi because of their beliefs;

(d) At the lack of continuity in the cooperation of the Government with the mechanisms of the Commission on Human Rights, particularly the failure of the Government of the Islamic Republic of Iran to invite the Special Representative to visit Iran in the period under review, and the low rate of response by the Government to communications from the Special Representative;

(e) At the continuing threats to the life of Mr. Salman Rushdie, as well as to individuals associated with his work, which appear to have the support of the Government of the Islamic Republic of Iran, and deeply regrets the failure of the Government of the Islamic Republic of Iran to condemn the bounty offered for the assassination of Mr. Rushdie by the 15 Khordad Foundation;

(f) At the apparent reluctance of the Iranian authorities to prosecute and punish those who commit violence against critics of the Government;

(g) At the continued harassment and intimidation of some journalists and writers, and of political and religious dissidents seeking to exercise their freedom of expression;

(h) At the continued lack of full and equal enjoyment by women of human rights;

4. Calls upon the Government of the Islamic Republic of Iran:

(a) To continue its positive efforts and to build upon its commitment to consolidate respect for the rule of law and allow greater freedom of expression;

(b) To abide by its freely undertaken obligations under the International Covenants on Human Rights and under other international instruments on human rights, and to ensure that all individuals within its territory and subject to its jurisdiction, including members of religious groups and persons belonging to minorities, enjoy all the rights enshrined in those instruments;

(c) To take all necessary steps to end the use of torture and the practice of amputation, stoning and other forms of cruel, inhuman and degrading punishment;

(d) To resume its cooperation with the mechanisms of the Commission on Human Rights, in particular with the Special Representative, to allow him to continue his inquiry first-hand and to continue his dialogue with the Government;

(e) To implement fully the conclusions and recommendations of the Special Rapporteur on religious intolerance relating to the Baha'is, Christians and other minority religious groups, until they are completely emancipated;

(f) To increase efforts to bring into line with announced government policy on freedom of expression the activities of various elements in the judiciary and the security services, as well as extrajudicial groups, which are resisting positive changes and consequently the strengthening of human rights;

(g) To build on the progress made in the last year by taking further measures to eliminate discrimination and human rights violations against women, including all discrimination in law and in practice against them, for example by amending article 1117 of the Civil Code, which subjects the taking up of a profession by women to the prior consent of their husbands, and which has been criticized by the International Labour Organization;

(h) To refrain from violence against members of the Iranian opposition living abroad and to cooperate wholeheartedly with the authorities of other countries in investigating and prosecuting offences;

(i) To provide satisfactory written assurances that it does not support or incite threats to the life of Mr. Salman Rushdie;

(j) To ensure that capital punishment will not be imposed for non-violent crimes, for apostasy, or otherwise in disregard of the provisions of the International Covenant on Civil and Political Rights and the United Nations safeguards;

(k) To provide the Special Representative with precise information on the protection of human rights within the drug interdiction policy of the Islamic Republic of Iran;

(l) To embark on a process to bring the Islamic Human Rights Commission into line with the 1993 Principles relating to the status of national institutions for the promotion and protection of human rights, which establish benchmarks for the competence of national institutions as well as their composition, the appointment of members, the guarantee of independence and pluralism, and on methods of operation;

5. Decides:

(a) To extend the mandate of the Special Representative, as contained in Commission resolution 1984/54 of 14 March 1984, for a further year, and requests the Special Representative to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Representative to enable him to discharge his mandate fully;

(c) To continue its examination of the situation of human rights in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'is and Christians, at its fifty-fifth session under the same agenda item;

6. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/80 of 22 April 1998, endorses the Commission's decision to extend the mandate of the Special Representative on the situation of human rights in the Islamic Republic of Iran, as contained in Commission resolution 1984/54 of 14 March 1984,

for a further year, and requests the Special Representative to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information. The Council requests the Secretary-General to continue to give the Special Representative all necessary assistance to enable him to discharge his mandate fully."

59th meeting
22 April 1998

[Adopted by a roll-call vote of 23 votes to 14, with 16 abstentions. See chap. X.]